

NSC Meeting on the Polish Situation

Overview

As the Polish government, with Soviet support, begins the second week of its crackdown on Solidarity, the U.S. faces several important choices. We need to be able to act with our Allies to penalize the Polish and Soviet governments for their actions to date, and to be prepared to cope with a range of contingencies, including massive repression by the Polish government and Soviet military intervention short of a full scale invasion.

The most immediate task is to make clear to the Polish and Soviet governments that their actions will not be cost free. The three attached papers discuss the economic issues involved in imposing costs on both governments. Decisions needed are as follows:

-- Rescheduling Polish Debt.

- Not to invoke the "exceptional circumstances" clause in the 1981 agreement
- Whether to communicate to the private banks U.S. government desire not to have default proceedings at this time

-- Food Aid.

- Authorize suspension of shipment of remaining 6,000 tons of surplus dairy products
- Authorize continuation of shipments for CARE pre-school feeding programs provided Polish government guarantees end-use checks

-- Economic Measures.

- Impose costs on both Polish and Soviet governments and give U.S. representatives a firm negotiating position to take with our Allies.

We feel that popular support for the Polish people in Western Europe, especially from labor organizations, will make our Allies increasingly receptive to our firm approach. The key next step in consultations with Allies will be a Quadripartite meeting of Political and Economic

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Directors of the U.S., UK, France, and the FRG on December 22 in London. U.S. willingness to follow through on meaningful punitive measures will of course be an important element in gaining Allied agreement to similar measures.

On the basis of the Quadripartite discussions, we hope to be able to recommend additional unilateral and multilateral steps suitable for contingencies and as leverage for promoting a compromise settlement in Poland.

The AFL-CIO has decided that U.S. dockworkers will refuse to handle any cargo bound for Poland except humanitarian assistance. Organized labor is willing to work with us on defining what constitutes humanitarian assistance.

Finally, the fourth attachment to this paper is a memorandum on the legal implications of recent governmental actions in Poland.

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1981 POLICY DEBT RESCHEDULING:  
THE "EXCEPTIONAL CIRCUMSTANCES" CLAUSE

On April 27, 1981, Poland's 15 major Western creditors reached agreement on the terms for rescheduling Poland's official and officially guaranteed debt service payments which were due and unpaid as of May 1, 1981 and which fell due between May 1, 1981 and December 31, 1981. This agreement provided debt relief of approximately \$2.4 billion, of which the U.S. share was \$380 million. We believe that all participating creditor countries have now completed the necessary bilateral negotiations with Poland to implement this multi-lateral recommendation on terms.

The Agreed Minute signed in April included an "exceptional circumstances" clause. This clause provides for the suspension of the agreement by any participating country. There is a gentleman's agreement for consultations among the creditors prior to any country exercising this right. "Exceptional circumstances" were defined orally by the chairman of the meeting as the invasion of Poland by external forces or the use of Polish forces to suppress the Polish citizenry.

If the U.S. exercises its right to invoke the "exceptional circumstances" clause, the full amount of \$380 million will be due. The Poles do not have funds available to meet these payments. Furthermore, other countries would invoke the clause to assure that the U.S. was not treated as a preferred creditor at some future date if and when the Poles could pay. The private banks for the same reason would end their rescheduling negotiations and demand full payment on the \$3 billion owed them. As a result, the Poles would be called upon to pay approximately \$5 billion immediately. There is a high likelihood in this situation that one of the 460 Western banks with Polish liabilities would enter default proceedings in court to place liens against Polish property. This would produce a legal asset freeze and seriously disrupt (but not stop) Polish trade.

Policy Issue:

Should the U.S. invoke the "exceptional circumstances" clause of the 1981 debt agreement?

- Pro -- Would indicate that the U.S. takes seriously the Polish military suppression.
- Would severely hamper Polish economic recovery since their economy is dependent on the West for key inputs, both for the industrial and agricultural sectors.

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- Con -- Would end any Polish payments on their Western debt and eliminate an economic lever we can use later.
- Could cause instability in the German banking system. <sup>since</sup> given that some middle-sized banks ~~who~~ are over-exposed ~~will~~ <sup>may</sup> fail. ~~which~~
- Would reduce the possibility of recovery of U.S. interests and principal.

It is recommended by State and Treasury that it would not serve U.S. interest to invoke the "exceptional circumstances" clause at this time.

\_\_\_\_\_ Agree \_\_\_\_\_

Disagree

Policy Issue: (Only if the above is ~~dis~~agree)

The private banks are to conclude the 1981 rescheduling December 28. The Poles do not have the \$350 million due in back interest to close this deal. The banks may declare a default or leave the issue open for further negotiation. If they declare a default and go into court, the governments to protect their claims would have to follow suit. Declaration of default by the banks would have the same effect as the U.S. invoking the "exceptional circumstances" clause.

Assuming the U.S. banks are not paid, should the U.S. government communicate to the banks its desire not to have default proceedings at this time?

- Pro -- Would reduce the possibility of private banks preempting a future U.S. Government action, thereby preserving our leverage.
- Con -- The U.S. Government should not be providing advice to U.S. banks on commercial transactions.
- U.S. approach to banks could leak and be seen as a weak U.S. response.

There is no agency agreement on this issue.

Options:

1. Contact leading banks and express U.S. desire that they continue to negotiate if there is no payment or agreement rather than declare a default.

\_\_\_\_\_ Yes \_\_\_\_\_

No

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2. Contact leading banks and indicate the U.S. Government is not invoking the "exceptional circumstances" clause at this time and therefore is not seeking a default situation.

\_\_\_\_\_ Yes \_\_\_\_\_ No

3. Do not contact U.S. banks in this issue.

\_\_\_\_\_ Yes \_\_\_\_\_ No

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SECRETFOOD AID TO POLAND

All of the Agricultural Commodities that we have sold to Poland on government credit programs this year have been shipped. However, some of the surplus dairy products which we sold to Poland this year for Polish currency remain to be shipped. There are two categories:

- (a) Last April we sold \$71 million worth of dried milk and butter. The Polish Government has been taking delivery on this purchase in monthly increments. Approximately 6,000 tons (roughly 10 percent of the total) has not yet been shipped.
- (b) This fall we agreed to \$29 million worth of surplus dried milk and cheese to the Polish Ministry of Health to be used in a program for the feeding of children in pre-school day care centers, administered by CARE through the Ministry of Health. None of this has been shipped.

The dairy products from the first category go into the government distribution network for general use in Poland in any way the Polish Government sees fit. It would be an appropriate sanction at this point to hold up the shipment of the remaining 6,000 tons.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_

On the other hand, the surplus dairy products from the CARE program are part of a large overall CARE program in Poland, which also involves the distribution of tens of thousands of CARE packages to the elderly and infirm, as well as several million dollars worth of food commodities to homes for the aged and to hospitals. CARE has an office in Warsaw headed by an American citizen resident representative. The surplus dairy products destined for the CARE program are humanitarian food aid directed to needy target groups. The United States is clearly identified as the donor. It would not be an appropriate sanction to suspend shipment of this aid, but we should demand guarantees that we can monitor its distribution.

Agree \_\_\_\_\_ Disagree \_\_\_\_\_

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SECRETECONOMIC MEASURES

There are a number of actions which we can take vis-a-vis Poland if the current situation continues:

-- Seek agreement with our allies to recommend to the IMF that consideration of the Polish request for membership be suspended; we could also do this unilaterally. This would be an important political signal; it would not have any financial impact on the Poles in the immediate future.

-- Reconsider the access of the Polish fishing fleet to U.S. waters. This may pose certain problems, because Polish and American firms have joint arrangements and contracts could be cut across. But in any case, this is only a minor signal.

-- Seek agreement among our allies on a "no exceptions" policy for Poland in COCOM. This would mean that no COCOM-controlled items would be approved for shipment to Poland.

-- Suspend renewal of export insurance for Poland by the Export-Import Bank. This would involve denying Ex-Im insurance for about \$25 million of U.S. exports to Poland.

There are also a number of things that can be done vis-a-vis the USSR:

-- Suspend negotiations indefinitely on a maritime agreement. The current agreement expires at the end of December, 1981. If there is no agreement, we can require the Soviets 14 days notice in advance of port calls, and make approvals on a case-by-case basis, contingent on the purpose of the call.

-- Refuse to set a new date for talks on a new long-term grain agreement (LTA). This would be a major signal to the Soviets, although there would be strong negative pressure from the U.S. farm community. (However, if this drifts to September, when the current agreement expires, it would work against us. We would lose the only instrument we have to limit Soviet grain purchases, other than a formal embargo.)

-- Encourage Western banks not to lend the \$200 million the Soviets now want to borrow.

-- Add the Polish situation to our arguments for a major tightening of COCOM controls on exports to the Soviets. Pursuant to agreement at the Ottawa Summit, we have planned a high-level COCOM meeting in January for this purpose; but our allies want a more general, political meeting, without a clear focus on the specific areas of militarily related technologies that we want to bring under control.

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-- Work with our allies to seek a halt to the export of oil and gas equipment to the Soviets, thereby halting work on the West Siberian pipeline. This stage of the Polish situation, however, is probably not sufficiently threatening to the allies to get them to change their minds.

-- Reconsider the International Harvester and Caterpillar export licenses. This would be a strong signal to the Soviets but also would hurt the American firms. We may wish to learn first whether other suppliers would take similar action to block their firms. (After Afghanistan, U.S. action blocking exports by Alcoa and Armco was undercut by firms from Germany and France.)

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